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5
6 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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8 UNITED STATES OF AMERICA,)

9 Plaintiff,)

10 vs.)

11 BIAO CHANG ZHENG,)

12 Defendant.)

Case No.2:13-cr-00040-APG-VCF

MOTION TO REDUCE TERM
OF IMPRISONMENT TO TIME
SERVED

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ORDER

COMES NOW the United States of America, by the Director of the Federal Bureau of Prisons and through the undersigned Assistant United States Attorney, and respectfully moves the Court pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), to modify the defendant's term of imprisonment to time served. In support hereof, the United States and the Director of the Federal Bureau of Prisons state as follows:

1. Biao Chang Zheng pleaded guilty to violating 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(A)(vii), Conspiracy to Manufacture a Controlled Substance, 21 U.S.C. § 856, Maintaining Drug-Involved Premises, and 18 U.S.C. § 2, Aiding and Abetting.

1 2. Mr. Zheng was sentenced on August 19, 2014, by the Honorable Andrew P. Gordon in
2 the United States District Court in the District of Nevada, to 37 months of imprisonment and
3 three years of supervised release.

4 3. Mr. Zheng has a projected good conduct time release date of September 17, 2015.

5 4. Mr. Zheng, age 48, was diagnosed on June 8, 2015, with stage IV liver cancer and
6 widespread metastatic disease to the lungs. He has opted to forego treatment, understanding that
7 this treatment is not curative. He is currently independent in his activities of daily living but his
8 condition will rapidly deteriorate. His prognosis is poor and his life expectancy without
9 treatment is six months.

10 5. If the motion is granted, Mr. Zheng will live with his son in Brooklyn, New York.

11 6. The United States Probation Office for the Eastern District of New York has approved
12 the release plan, and has agreed to supervise Mr. Zheng, should he be released.

13 **WHEREFORE**, it is respectfully requested that the Court reduce the term of
14 imprisonment to the time the defendant has now served. Pursuant to 18 U.S.C. §
15 3582(c)(1)(A)(i), the Court, upon motion of the Director of the Bureau of Prisons, may modify a
16 term of imprisonment upon the finding that “extraordinary and compelling reasons” exist to
17 warrant a reduction. The defendant’s terminal medical condition and limited life expectancy
18 constitute “extraordinary and compelling reasons” warranting the requested reduction. The

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1 defendant would not, however, be subject to complete release, as he would begin serving the
2 three-year term of supervised release previously imposed by the Court.

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4 DATED this 3rd day of August, 2015.

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6 Respectfully submitted,

7 DANIEL G. BOGDEN
8 United States Attorney

9 /s/ Amber M. Craig

10 AMBER M. CRAIG
11 Assistant United States Attorney
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1 UNITED STATES OF AMERICA,

2 Plaintiff,

3 vs.

4 BIAO CHANG ZHENG,

5 Defendant.

) Case No.2:13-cr-00040-APG-VCF

) ORDER TO REDUCE TERM OF
) IMPRISONMENT TO TIME SERVED

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7 **BEFORE THE COURT** is a motion filed by the United States of America and the
8 Director of the Federal Bureau of Prisons pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), seeking a
9 modification of the term of imprisonment of the defendant, Biao Chang Zheng, to time served,
10 and commencement of a three-year term of supervised release previously imposed. The court
11 finds:

12 1. Defendant Biao Chang Zheng pleaded guilty to violating 21 U.S.C. §§ 846 and
13 841(a)(1) and (b)(1)(A)(vii), Conspiracy to Manufacture a Controlled Substance, 21 U.S.C. §
14 856, Maintaining Drug-Involved Premises, and 18 U.S.C. § 2, Aiding and Abetting.

15 2. Mr. Zheng was sentenced on August 19, 2014, in the United States District Court in
16 the District of Nevada to 37 months of imprisonment and three years of supervised release.

17 3. Mr. Zheng, age 48, was diagnosed on June 8, 2015, with stage IV liver cancer and
18 widespread metastatic disease to the lungs. He has opted to forego treatment, understanding that
19 this treatment is not curative. He is currently independent in his activities of daily living but his
20 condition will rapidly deteriorate. His prognosis is poor and his life expectancy without
21 treatment is six months.

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1 4. Title 18 U.S.C. § 3582(c)(1)(A)(i) authorizes the court, upon motion of the Director of
2 the Federal Bureau of Prisons, to modify a term of imprisonment upon the finding that
3 extraordinary and compelling reasons warrant the reduction. The Director of the Federal Bureau
4 of Prisons contends, and this court agrees, that the defendant's terminal medical condition and
5 limited life expectancy constitute extraordinary and compelling reasons warranting the requested
6 reduction.

7 **IT IS THEREFORE ORDERED** that the defendant's term of imprisonment is hereby
8 reduced to the time she has already served.

9 **IT IS FURTHER ORDERED** that the defendant shall be released from the custody of
10 the Federal Bureau of Prisons as soon as her medical condition permits, the release plan is
11 implemented, and travel arrangements can be made.

12 **IT IS FURTHER ORDERED** that upon his release from the custody of the Federal
13 Bureau of Prisons, the defendant shall begin serving the three-year term of supervised release
14 previously imposed.

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16 DONE AND ORDERED THIS 4th day of August, 2015.

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21 ANDREW P. GORDON
22 United States District Judge
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